

No. 662/2-L.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently the Government at public expenses for public purpose namely, for constructing Dhani miran distributary from R. D. 03 to R. D. 17500 tail in Villages Miran, Tehsil Bhiwani, District Bhiwani for which notification has been issued under sub-section (4) of section 17 read with clause (c) of sub-section (2) of section 17 of the said Act and published,—vide Haryana Government Notification No. 584/2-L, dated 11th November, 1976 in *Haryana Government Gazette*, Part I, dated 30th November, 1976 it is hereby declared that the land described in the specification below is required urgently for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

The plans of the land may be inspected in the office of the Land Acquisition Officer, Irrigation Department, Ambala and the Executive Engineer, B. N. C. Canal Division, Tosham.

SPECIFICATION

District	Tehsil	Name of Village	Area in Acres	Boundaries
				A strip of land measuring 17500 feet in length and varying in Widths Comprising part field numbers given as under :—
Bhiwani	Bhiwani	Miran	33.90	640, 632, 633, 888
		89		631
				652, 578, 575, 579, 574,
				581, 582, 553, 591, 77, 85,
				86, 81, 945 946, 947 936
				87, 87, 47
				44, 43, 122, 124, 125, 128,
				137, 138, 152, 148, 149.
		Total	33.90 Acres	Generally lying in the direction from East to West as demarcated at site and as shown on the plans.

No. 663/2-L.—Whereas the Governor of Haryana is satisfied that the land specified below is needed urgently by the Government, at public expense, for a public purpose namely, for constructing Gadhawa Distributary from R.D. 38,000 to R. D. 45550 in Villages Siwani Tehsil Bawani Khara District Bhiwani for which Notification has been issued under sub-section (4) of section 17 read with clause (c) of sub-section (2) of section 17 of the said Act and published,—vide Haryana Government Notification No. 581/2-L/ dated 11th November, 1976 in *Haryana Government Gazette*, Part I, dated 30th November, 1976 it is hereby declared that the land described in the specification below is required urgently for the above purpose.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

The plans of the land may be inspected in the offices of the Land Acquisition Officer, Irrigation Department Ambala, and the Executive Engineer, B. N. C. Canal Division, Tosham.

SPECIFICATION

District	Tehsil	Name of Villages H. B. No.	Area in Acres	Boundaries
				A strip of land measuring 6550 feet in length and varying in widths comprising part Field Numbers given as under: —
Bhiwani	Bawani Khera	Siwani 128	6.86	65, 214, 214, 213, 215 2, 1, 1, 1 216, 217, 218, 219, 220, 225 226, 297, 298, 299, 300.
Total:			6.89 Acres	generally lying in the direction from East to West as demarcated at site and as shown on the plans.

The 10th December, 1976

No. 664/2L.—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government at public expense for a public purpose, namely for constructing Sidhenwa minor from R. D. 0 to R. D. 18350 tail in villages Salimpur, Sidhenwa and Hariwas tehsil Loharu district Bhiwani, It is hereby notified that the land in the locality specified below is to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the officers of Irrigation Department for the time being engaged in the under taking along with their servants, workmen etc. to enter upon and survey land in the locality and do all other acts required or permitted by the section.

Further, where as the Governor of Haryana is satisfied that land is required for the Sidhenwa minor which is of very urgent importance within the meaning of clause (c) of sub-section (2) of section 17 of the said act and whereas the Governor of Haryana is of the opinion that the provision of sub-section (2) of the said sections thus applicable. It is hereby directed under sub-section (4) of section 17 of the said act that the provisions of Section 5-A of the act shall not apply in regard to this acquisition.

SPECIFICATION

District	Tehsil	Name of village H. B. No.	Area in acres	Boundary
				A strip of land measuring 1835 feet in length and varying in widths comprising part field numbers given as under.
Bhiwani	Loharu	Salimpur 5	8.98	16, 15 11, 20, 21, 25, 25, 24 1, 2

District	Tehsil	Name of village H. B. No.	Area in acres	Boundary
Bhiwani	Loharu	Salimpur 5	8.98	22 3, 4, 8, 9, 11, 12, 20 23 16, 23, 24, 25 28 2, 3, 9, 10, 4 27 6, 7, 12, 13, 14, 15, 18, 19, 20, 21
Bhiwani	Loharu	Sidhenwa 4	19.22	287, 293, 294, 292, 303, 272, 305, 307, 308, 309, 406, 407, 403, 387, 388, 373, 372, 391, 466, 415, 366. 334
Bhiwani	Loharu	Hariawas 3	5.94	80 1, 2 78 1, 2, 3, 4, 5 79 1, 2, 3, 4, 5 77 2, 3, 4, 5 71 21, 22
Total			34.14	Generally lying in the direction from east to west as demarcated at site and as shown on the plans. By orders of Governor of Haryana.

No. 665/2-L.—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government at public expense for a public purpose, namely, for constructing Salewala Sub-Minor From R.D. 0 to R. D. 4718 Tail Villages Salewala and Hansan in Tehsil Bhiwani, District Bhiwani.

It is hereby notified that the land in the locality specified below is to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section the Governor of Haryana hereby authorises the officers of Irrigation Department for the time being engaged in the undertaking along with their servants, workmen etc., to enter upon and survey land in the locality and do all other Acts required or permitted by the Section.

Further, whereas the Governor of Haryana is satisfied that the land is required for the Salewala Sub-Minor which is of very urgent importance with in the meaning of clause (c) of Sub-Section (2) of Section 17 of the said Act and whereas the Governor of Haryana is of the opinion that the provisions of Sub-Section (2) of the said Section are thus applicable. It is hereby directed under sub-section (4) of Section 17 of the said act that the provisions of section 5-A of the said act shall not apply in regard to this acquisition.

SPECIFICATION

District	Tehsil	Name of Village H.B. No.	Area in Acres	Boundary
A strip of land measuring 4,718 feet in length and varying in widths comprising part field numbers given as under :—				
Bhiwani	Bhiwani	Salewala (75)	6.29	<div>70</div> <div>71</div> <div>9, 10, 11, 12, 72</div> <div>6, 7, 8, 9, 10, 15,</div> <div>1, 2, 3, 4, 5, 6, 7, 8, 9, 10</div>
Bhiwani	Bhiwani	Hansan (74)	4.39	<div>3</div> <div>4</div> <div>6</div> <div>21/2, 22, 23, 24, 25</div> <div>7</div> <div>21</div> <div>8</div> <div>1, 10</div> <div>1, 2, 3, 4, 5, 6,</div> <div>5/1, 5/2, 4</div>
Total			10.68	

Generally lying in the Direction from East to West as demarcated at site and as shown on the plans.

Dated the 13th December, 1976

No. 667/2.L.—Whereas the Governor of Haryana is satisfied that the Land specified below is needed urgently the Governor at Public expense namely, for constructing Dadam Distributary from R.D. 0 to R. D.20500 Tail in villages Saral and Dadam in tehsil Bhiwani district Bhiwani for which notification has been issued under sub-Section (4) of section 17 read with clause (c) of the Sub-section 2 of section 17 of the said act and published vide Haryana Government Notification No. 588/2-L, dated the 11th November, 1976 in *Haryana Government Gazette Part I* dated 30th November, 1976. It is hereby declared that the land described in the specification below is required urgently for the above purpose.

This declaration is made under the provisions of section 6 of the land Acquisition Act, 1894 for the Information of all whom it may concern.

The plans of the land may be inspected in the office of the Land Acquisition offices, P. W. D. Irrigation Department, Ambala and the Executive Engineer, B. N. C. Canal Division Tosham.

SPECIFICATION

District	Tehsil	Name of village H. B. No.	Area in Acres	Boundary
Bhiwani	Bhiwani	Saral (82)	15.96	<p>A strip of land measuring 20500 feet in length and varying in widths comprising part field numbers given as under.</p> <div>8</div> <div>23</div> <div>22</div> <div>12, 13, 19, 20, 21,</div> <div>1—10</div> <div>6, 15, 16, 25,</div>

District	Tehsil	Name of Village	Area in acres	Boundary		
H. B. No.						
Bhiwani	Bhiwani	Saral-(82)— <i>concl'd</i>	15.96— <i>concl'd</i>	31	46	
				4, 7, 14, 17, 18, 23 55	3, 8, 12, 13, 19, 22 69	70
				2, 9, 10, 11, 20, 21 83	15, 16, 25 98	1—10 113
				5, 6, 15, 16, 25 114	4, 5, 7, 13, 18, 19, 22 124	1
				5, 7, 14, 17, 24 36	4, 7, 14 53	
Do	Do	Dadam (36)	16.04	9, 12, 19, 21, 22 59	1, 2, 9, 12, 19, 18, 23 78	
				3, 8, 13, 18, 79, 22 79	6, 14, 15, 17, 18, 19, 21, 22 85	86
				1—2—10 102	1, 5, 6, 7, 14, 18, 22, 23	
				2, 3, 8, 13, 14, 17, 18, 24, 25 109	120	121
				5, 6, 14-15-17-23-24 122	5, 6, 7, 8	1, 2, 3, 4, 5
				1-2-3-4		
Total			32.00	Generally lying in the Direction from South to North as demarcated at site and as shown on the Plan.		

By order of Governor of Haryana.

Dr. G. P. MALHOTRA,
Superintending Engineer, B.N.C. Canal Circle,
No. II. Hissar.

HOME (POLICE) DEPARTMENT

The 22nd December, 1976

No. 20333/T. (1).— In Exercise of the powers conferred by section 40 of the Punjab Laws Act, 1872, the Governor of Haryana hereby confers upon the following ACIOs-II, within the limits of the Haryana State, the powers which may be exercised by a Police Officer under the Police Act V of 1861 from the dates they report for duty in the districts noted below against the names of each Cadets, till the time they complete their training in the State of Haryana;—

Sr. No.	Name	District of Training
1	Sudesh Kumar Rishi	Rohtak
2	Partap Singh Bhatia	Sonapat
3	D. K. Dwesar	Gurgaon
4	Suman Joshi	Rohtak

Sr. No.	Name	District of Training
5.	Avtar Singh Sandhu	Gurgaon
6.	Vinod Kapani	Mohindergarh
7.	Man Mohan Singh	Rohtak
8.	S. K. Kapoor	Mohindergarh
9.	Aran Kumar Vohra	Sonepat
10.	Amrik Singh	Mohindergarh
11.	Satish Kumar	Gurgaon
12.	Ravi Kant Saini	Rohtak
13.	Kashmir Singh	Mohindergarh
14.	G. S. Sangar	Gurgaon
15.	Ashok Bansal	Sonepat

No. 2065-66/T-I.—In exercise of the powers conferred by Section 40 of the Punjab Laws Act, 1872, the Governor of Haryana hereby confers upon the following directly recruited Sub-Inspector of C. B. I., within the limits of the Haryana State, the powers which may be exercised by a Police Officer under the Police Act V of 1861, from the date he reports for duty in the district noted against his name, till the time he completes his training in the State of Haryana :—

Name of the cadet	District to which attached for training
Shri Parbhat Chander Sharma	Bhiwani

(Sd.)

Deputy Secretary, Home,
for Secretary to Government, Haryana,
Home Department.

LABOUR DEPARTMENT

The 8th December, 1976

No. 7466-4Lab-76/33877.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the Workmen and the Management of M/s Haryana Roadways, Rohtak.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 14 of 1975

between

SHRI RAGHBIR SINGH WORKMAN AND THE MANAGEMENT OF M.S HARYANA ROADWAYS, ROHTAK

AWARD

By order No. ID/RK/182-Q-73/14142, dated 10th March, 1975 the Governor of Haryana, referred the following dispute between the management of M/s Haryana Roadways, Rohtak and its workman Shri Raghbir

Singh to this Labour Court, for adjudication in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Raghbir Singh Conductor was justified and in order ?
If not, to what relief is he entitled ?

➤ The parties put in their appearance in this Court and filed their pleadings.

The workman alleged,—*vide* claim statement filed by him that he being in service of the management as a Conductor on permanent basis with effect from 24th April, 1971 on wages of Rs. 208 p.m., his services were terminated by the later illegally with effect from 14th August, 1972 and that the allegations made against him,—*vide* charge sheet served on him were false and baseless and the enquiry held against him was irregular not in accordance with principles of natural justice and that the charges remained unestablished. He thus claimed his reinstatement with continuity of service and full back wages.

The management controverted the allegations made by the workman and pleaded that the enquiry held against him was legal and valid in all respects and the charges framed against the workman were found fully substantiated. It was stated that the workman was given full opportunity to take part in the enquiry by way of cross-examining the witnesses examined by the management and to adduce his defence evidence and that he fully availed of this opportunity.

An issue in terms of the dispute referred to this Court as stated above was thus framed on pleas of the parties.

The workman was charged—

- (1) For his having failed to issue a ticket of the value of 70 paise of a distance from Jhajjar to Badli to a passenger on 31st January, 1972, while being a Conductor of Bus No. 4226 of Haryana Roadways with intent to embezzle this amount.
- (2) For his having failed to punch 9 tickets of the value of Rs. 4.95 of the distance from Jhajjar to Kheri on 1st February, 1972 while being a Conductor of Bus No. 4226 of Haryana Roadways with intent to embezzle that amount.

He submitted his explanation copy Exhibit M-11 to the charge sheet copy Exhibit M-10. The explanation being found unsatisfactory by the management, Shri Vishan Dass Bhatia Traffic Manager was appointed as the Enquiry Officer who made his report Exhibit M-7 as a result of the enquiry held by him by way of recording the statement of Shri Chotu Ram Inspector who checked the Bus and the statement of the workman.

I have seen the copies of the proceedings of the enquiry taken up by Shri Vishan Dass Bhatia and do not find the enquiry irregular suffering from the failure of the enquiry officer to adopt principle of natural justice. I on the other hand find that the workman was given full opportunity to take part in the enquiry by way of cross-examining the witnesses examined by the management and adduce his defence evidence. It cannot, therefore, be said that the enquiry held by Shri Vishan Dass Bhatia is in any way defective. No suggestion was made before me by the authorised representative of the workman, that Shri Vishan Dass Bhatia or Shri Chotu Ram or any Officer of the management was in any way inimical to the workman or had any motive to falsely implicate. It is on the other hand found admitted by the workman, that he forgot to punch the tickets 9 in number of the value of Rs. 4.95 and that one of the passengers himself did not demand the ticket from him. This explanation was found to be unsatisfactory by the management and the Enquiry Officer and the finding of fact in respect of the intention of the workman to embezzle the amount cannot be said to be unwarranted from facts of the case put forth before him.

Shri Madhu Sudan Saran Cowshish authorised representative for the workman vehemently contended that no notice of the enquiry was ever given to the workman and the enquiry thus suffered from a major lapse on the part of the Enquiry Officer in following principles of natural justice. Reference may in this connection be made to the notices Exhibit M-2, M-3 and M-4 sent to the workman by the Enquiry Officer. Each directing him to appear before him on a particular date fixed for hearing. Even though there is no endorsement in respect of service of any of these notices on the workman, yet the later is found to have been actually present on 25th May, 1972 before the Enquiry Officer and taken part in the enquiry, as would appear from his own signatures under the statement of Shri Chotu Ram and his own statement recorded on that date. His explanation tendered by him during the proceedings taken in the reference, that his signatures were obtained on the original statement of Shri Chotu Ram copy Exhibit M-5 and his own statement copy Ex. M-6 by the Traffic Manager Rohtak who had called him for that purpose subsequently, is far from convincing. It cannot be believed that he would sign these documents merely because he was asked to do so by an officer, even after he had been dismissed from service. Even otherwise this explanation now tendered by him during the proceedings of this reference is not found to have been put forth by him in his reply copy Ex. M-13 to the show cause notice copy Ex. M-12 served on him by the management and this is liable to be rejected on this ground as well as an after-thought and an improvement made by the workman subsequently.

The authorised representative for the workman next urged, that the mere circumstance of 9 tickets having remained unpunched and one passenger being not in possession of a ticket, did not necessarily lead to an inference in respect of dishonest intention of the workman particularly when he submitted at the earliest opportunity in reply to the charge sheet that on account of rush of passengers he forgot to punch the tickets and one passenger did not demand from him the ticket or being called to do so. Suffice to say that none of these pleas is found taken either in the claim statement filed by the workman or in his own statement made by him as his own witness and the only plea found taken on the other hand is that the enquiry was not held in accordance with principle of natural justice and that it was as such irregular. It would thus appear that the plea taken by the workman during the proceedings of the reference are inconsistent with his case put forth by him during the enquiry and whatever pleas were taken by him during the enquiry were significantly omitted during the trial and new pleas were put forth. No reliance can thus be put on the plea of the workman taken by him earlier and not taken during the trial that he forgot to punch the tickets and did not issue a ticket to one passenger merely because he failed to demand the same. The irresistible conclusion under the circumstances is that the finding of the enquiry officer are correct and justified and do not call for any interference.

The charges against the workman being of the nature of embezzlement of Government money though of a very small amount of Rs. 5-65, the punishment as awarded to him by the management cannot also be said to be unjustified. The result is that the order of termination of his services made by the management is correct and justified in all respects and the workman is not entitled to any relief.

I hold accordingly and answer the reference while returning the award in these terms.

(Sd.) MOHAN LAL JAIN.

Presiding Officer,

Labour Court, Haryana, Rohtak.

Dated the 12th July, 1976.

No. 1674. dated the 19th July, 1976.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

(Sd.) MOHAN LAL MAIN,

Presiding Officer,

Labour Court, Haryana, Rohtak.

No. 9052-4Lab-76/33879.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the Management of M/s. T.I.T., Mills, Bhiwani.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 86 of 1973

between

THE WORKMEN AND THE MANAGEMENT OF M/S T.I.T., MILLS. BHIWANI

AWARD

By order No. ID/HSR 20-B-72-1706, dated the 17th May, 1973 the Governor of Haryana, referred the following dispute between the management of M/s. T.I.T. Mills, Bhiwani and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947.—

- (1) Whether the workers who have not become eligible for earned leave under the Factories Act, 1948 due to strike in the year 1969 be granted leave relief in lieu of earned leave? If so, with what details?
- (2) Whether the action of the management in withholding the grant of paid sick leave to the workers was justified and in order? If not, to what relief are they entitled?
- (3) Whether the National and Festival Holidays granted to the workers should be taken as working days for calculating the period of 240 days required for determining the leave due to them under section 79 of the Factories Act, 1948? If so, with what details?

(4) Whether the action of the management in requiring weavers to weighing of cloth on chakri machines is justified and in order ? If not, to what relief are they entitled ?

(5) As stated under and issue No. 8.

➤ The workmen represented by the Textile Karamchhari Sangh Bhiwani through the President of their union, Shri Rohtas Kumar and the management put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings. On applications made by the T.I.T. Karamchhari Sangh, Bhiwani and Kapra Mills Mazdoor Sangh, Bhiwani, other unions representing some of the workmen, they were also permitted to join as a parties in the reference, - *vide* order dated 6th June, 1974 of my learned predecessor, Shri O.P. Sharma. They also thus filed their claim statement.

Shri Rohtas Kumar alleged, - *vide* claim statement filed by him on behalf of the workmen of his union, that the period of strike should have been counted as their period on duty for calculating their earned leave for the year 1969 and that National and Festival Holidays granted to the workmen should be counted for calculating the period of 240 days required for determining their earned leave under section 79 of the Factories Act. He stated that the management illegally withheld the grant of paid sick leave being granted before 1966 to the workmen and that the action of the management requiring Weavers to weigh clothes on Chakri Machines was unjustified. T.I.T. Karamchhari Sangh Bhiwani while not pressing the demand leading to dispute Nos. 1 and 5 strongly supported the other demands leading to dispute Nos. 2, 3 and 4.

The management, -*vide* written statement, raised preliminary objections that the demands raised by the workmen had not been validly espoused and the reference made in respect of disputes Nos. 1, 2 and 3 related to implementation of the award and interpretation of the provisions of law contained in the Factories Act or Punjab Industrial Establishment (National and Festival Holidays Casual and Sick leave) Act, 1965, hereinafter referred to as Holidays Act of 1965 and as such was had in law. They stated that any dispute or controversies regarding the implementation of award or interpretation of statutes did not amount to an industrial dispute and that the demand relating to dispute No. 4 was legally barred under settlement dated 8th March, 1970. They further denied generally the entitlement of the workmen of their demands leading to dispute Nos. 1 to 5 stated above with the plea that the workmen rightly disallowed earned leave during the year 1969 on account of their having illegally struck work and that the grant of paid sick leave to them was regulated under the provisions of the Holidays Act, 1965, after its enforcement in preference to the award formerly governing that parties in such matters after it had been duly terminated and a notice of change had been given in accordance with the provisions of the Industrial Disputes Act. As regards other demands leading to dispute Nos. 3 and 4 the management pleaded that the workmen were being granted earned leave in accordance with the provisions of the Factories Act and they were not entitled to count National and Festival Holidays as working days under section 79 of the Factories Act and it had been the practice from the very beginning of the working of the Mills that the Weavers themselves got the cloth weighed and that it was their duty to do so even now in accordance with the past practise.

¶ Shri Sagar Ram Gupta controverted the pleas of the mangagement relating to disputes Nos. 2, 3 and 4, -*vide* rejoinder filed by him with the result that the following issues were framed, -*vide* order dated 4th November, 1974 on pleas of the parties.

- (1) Whether the demands covered by items Nos. 1, 2 and 3 of the order of reference do not constitute industrial dispute ? (on management).
- (2) Whether the disputes covered by the present reference have been properly espoused ? If not, with what effect (on workmen).
- (3) Whether the demand covered by item No. 4 of the order of reference is barred by settlement dated 8th March, 1970 ? (on management).
- (4) Whether the workers who have not become eligible for earned leave under the Factories Act, 1948 due to strike in the year 1969 be granted leave/relief in lieu of earned leave ? If so, with what details ?
- (5) Whether the action of the management in withholding the grant of paid sick leave to the workers was justified and in order ? If not, to what relief are they entitled ?
- (6) Whether the National and Festival Holidays granted to the workers should be taken as woking days for calculating the period of 240 days required for determining the leave due to them under section 79 of the Factories Act, 1948 ? If so, with what details ?
- (7) Whether the action of the mangagement in requiring Weavers to weighing of cloth on Chakri machines is justified and in order ? If not, to what relief are they entitled ?

(8) Whether the following Gray Folders should be paid Rs. 3 P.M. as being granted to other Gray Folders ?
If so, with what details ?

- (1) Shri Shankar, son of Mamraj
- (2) Shri Raghubir, son of Indraj.
- (3) Shri Prodawal, son of Ara Khan.
- (4) Shri Bishambar, son of Mangal.
- (5) Shri Jaimal, son of Suraj Bhan.
- (6) Shri Ishwar, son of Gigranj.
- (7) Shri Moman Chand, son of Har Chand.
- (8) Shri Nawal Kishore, son of Damodar Parshad.
- (9) Shri Moti Singh, son of Shri Tota Ram.
- (10) Shri Hari Charan, son of Shri Matu Ram.

I have heard the learned authorised representatives for the parties and seen the record. I decide the issues as under :—

Issue No. 1—

Shri B. R. Ghai, learned authorised representative for the management, contended with reference to an authority reported as 1969-II-L.L.J-153 of the Calcutta High Court, between Ammapet Handloom Weavers' Co-operative Production and Sales Society, Ltd., and Kadalimuthu (K.S.) and others that a dispute with regard to non-implementation of the award could not be the subject matter of the Industrial dispute. He further urged that the demand relating to the interpretation of the law contained in the Factories Act or the Holidays Act, 1965 could also legally not be held as an industrial dispute so as to be the subject of a reference. I have given this matter of my careful consideration.

The term 'industrial dispute' has been defined in section 2(k) of the Industrial Disputes Act as under :—

Section 2(k). "Industrial dispute" means any dispute or difference between employers and employees or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person ;

It would appear from the disputes No. 1 to 5 as referred to this Tribunal,—vide this reference that the same or in the nature of differences between employers and workmen connected with the terms and conditions of the employment of the later generally and are as such well covered by the aforesaid definition. Even otherwise it has been held in AIR-949-Federal Court-148, Indian Paper Pulp Co. vs. Indian Paper Pulp Workers Union and 1968-Labour Indian Cases -127 (Calcutta High Court). K.M. Mukerjee vs. State Bank of India that the breach of an award may itself be raised as an industrial dispute to lead to another reference to an Industrial Tribunal. I, therefore, having regard to the definition of an industrial dispute stated above as given in the Act, and the view of law taken in these authorities, hold that the matters as referred to this Tribunal constitutes an industrial dispute and the reference made in respect thereof is valid. I accordingly decide this issue against the management.

Issues Nos. 2 and 3—

The management did not press the pleas covered by these issues and the same are therefore hereby decided against them.

Issue No. 4.—The workmen claimed title to the earned leave on the ground that the period during which they struck work in the year 1969 should be added to the number of days, they remained present on duty during the year 1969, for determining their earned leave under section 79 of the Factories Act. They, however, did not give any reason in their claim statement justifying the adoption of such a source, so much so Shri Sagar Ram Gupta, General Secretary, T.I.T. Karamchhari Sangh Bhiwani did not press the demand leading to this issue and Shri Rohtas Kumar, General Secretary, Textile Karamchhari Sangh Bhiwani did not even alleged in the claim statement that the strike observed by the workmen during the year 1969 was justified. There was otherwise no ground or justification in treating the period of strike of the workman as period on duty. The contention of the learned authorised representative for the workmen that the management,—vide agreement, dated 8th March, 1970 Exhibit M-5 having accepted to lower down the limit of 240 days to 200 days for allowing increment against the service rendered during the year 1969, should be asked justifiably to count the period of strike as period on duty has no merit. I, therefore, decide this issue against the workman.

Issue No. 5.—This is an important issue in the case. The admitted facts of the case are that the Hon'ble the Supreme Court of India,—vide their judgement dated 16th March, 1966 upheld the award dated 21st May, 1963 of Punjab Industrial Tribunal holding the workmen entitled to 7 days sick leave with wages on production of a medical certificate and the management continued implementing this award till May, 1966 when the Holidays Act, 1965 came into force with the publication of the rules thereunder. The management,—vide notice dated 10th February, 1966 copy Exhibit M-3 under section 19(6) of the Industrial Disputes Act (hereinafter referred to as the Act) served by them on all the three unions terminated the award. They further,—vide notice

dated 30th April, 1966 copy Exhibit M-4 expressed their intention to effect the change in respect of the matters governed by the holidays Act, 1965, in accordance with the provisions of section 9-A of the Act. They thus actually withheld the benefits available to the workmen under the Award while granting them casual leave and paid sick leave in accordance with the provisions of the Holidays Act, 1965 with effect from 1st June, 1966. Whereas the workman stressed their right to be governed by the award, the management insisted on granting them casual and paid sick leave only in accordance with the provisions of the Holidays Act, 1965.

It was held by the Hon'ble Supreme Court in 1961-I-LLJ-105 at page 119 workmen of New Elphinstone Theatre *versus* New Elphinstone Theatre and 1964-I-LLJ-19 at page 22 between south-Indian Bank Ltd., and Chacko (A.R.) that the rights conferred on the employees and the obligations imposed on the employer other than provided under section 23(c) read with section 19(3) of the Act, under an award continued till replaced by consent of the parties or fresh adjudication. These propositions of law was not disputed even by the learned authorised representative appearing for the management. It was however, contended by him that the statutory provisions of the Holidays Act, 1965 automatically replaced the award and the casual leave and the paid sick leave having been standardised uniformly,—*vide* these provisions, the management were under a duty to enforce the same irrespective of the rights and obligations of the parties existing under an award. I have given this matter my careful consideration.

Section 14 of the Holidays Act, 1965 providing an exception to the other provisions of the Act laid down as under :—

Section 14.—Rights and Privileges under laws, etc. not affected.—Nothing contained in this Act shall affect any rights or privileges which any worker is entitled to receive under any other law, contract, custom or usage, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

It would thus appear that the rights and privileges more favourable to a worker than what he would be entitled under the Holidays Act, 1965, conferred on him under any law, contract, custom or usage remained unaffected. Whereas the learned authorised representative for the workman contended in this connection that the word contract as stated in section 14 of the Holidays Act, 1965 reproduced above included Awards, the management strongly opposed the correctness of such an argument. The contention of the workmen is, however, found supported,—*vide* 1964-I-LLJ-19 at page 22 South Indian Bank Ltd. Chacko and 1964-II-LLJ-430 at page 432 Mohmad Qasim Larry *versus* Mohmad Samsodin and others holding the award to be a contract between the parties on the ground that the award supplanted or substituted contractual terms in respect of the matters covered by them. I thus relying on these authorities, am in full agreement with the authorised representative for the workmen that the term contract as used in section 14 of the Holidays Act, 1965 well covered the awards made,—*vide* industrial adjudication, and the award relied on by the workmen continued to govern the rights and obligations of the parties in respect of the matters stated therein despite the enforcement of the Holidays Act, 1965.

Assuming that the term contract as referred to above did not include within its definition, the award made by the Industrial Tribunal, heading of section 14 reproduced above, well provides a clue in respect of its interpretation in a manner so as to permit the addition of the word award to those of law, contract, custom or usage used therein for the following reasons.

The word "Extra" a latin phrase has been defined in Chamber 20th Century Dictionary "and the rest and so on, something in addition which can easily be understood". The word extra used in the heading of section 14 of the Holidays Act, 1965 thus indicated that the exception as provided therein to the other provisions of the Act were not confined to law, contract, custom or usage but could be extended so as to include within its provisions awards as well and rights and obligations of the parties thereunder. Even otherwise I fully agree with Shri B. L. Sharma authorised representative for the workmen that the intention of the legislature while laying down section 14 of the Holidays Act, 1965 could never be to provide for a partial protection and was on the other hand specifically to safeguard more favourable rights vesting in the workmen without any distinction of their origin. The Hon'ble the Supreme Court in 1957—I-LLJ-460 Niamla Textile Mills Ltd. *versus* State of Punjab observed as under :—

"The function of a court is to decide cases and leading jurists recognise that in the decision of many cases a court must fill interstices in legislation. A legislator cannot anticipate every possible legal problem ; Neither he can do justice in cases after they had arisen. This inherent limitation in the legislative process makes it essential that there must be some elasticity in the judicial process. Even the ordinary courts of law apply the principles of justice, equity and good conscience in many cases, e.g., cases in tort and other cases whether the law is not codified or does not in terms cover the problem under consideration. The Industrial Courts are to adjudicate on the disputes between employee's and their workmen, etc., and in the course of such adjudication they must determine the "rights" and "wrongs" of the claims made, and in so doing they are undoubtedly free to apply the principles of justice, equity and good conscience, keeping in view the further principle that their jurisdiction is invoked not for the enforcement of more contractual rights but for preventing labour practices regarding as unfair and for

restoring Industrial Place on the basis of collective bargaining. The process does not cease to be judicial by reason of elasticity or by reason of the application of the principles of justice, equity and good conscience" (Reported in 1 LLJ 1957 at page 460 (1950-57) 43 C.L.J. 2209 at 2226).

It would thus appear that the Industrial Tribunal has inherent jurisdiction to fill interstices in legislation in proper cases. I am thus not only entitled but have a duty under the principles of law enunciated in the aforesaid authority to add the word award after the word contract, custom, usage and law used in section 14 of the Holidays Act, 1965 and the arguments of the authorised representative for the workmen urged in this connection have full force. I further agree with Shri B.K. Sharma that the Holidays Act, 1965 was brought on the Statute Book in order to provide for rights not already available to the workmen and was not intended to curtail or restrict the rights already vesting in them under any award and that its provisions cannot be interpreted so as to restrict or limit such rights.

I find myself strengthened in the conclusions already arrived at by me. *vide* 1961-I-LLJ-328 Aleabic Chemical Works Co. Ltd. *versus* their workmen and authority of the Supreme Court wherein their Lordship on a parity of reasoning with reference to the interpretation of sections 78 and 79 of the Indian Factories Act, observed as under :

"Having regard to the obvious policy and object of the Act if section 79(1) is capable of two constructions that construction should be preferred which furthers the policy of the Act and is more beneficial to the employees in whose interest the Act has been passed. It is well settled that in construing the provisions of welfare legislation courts should adopt what is sometimes described as a beneficent rule of construction".

"Apart from this general consideration about the policy and object of the Act, sections 78 and 84 occurring indicate that section 79(1) is not intended to standardise leave provisions as contended by the Appellant, and that is the second reason why the appellant's arguments can not be accepted".

Let us then consider the provisions of sections 78 and 84.

Section 78(1) provides that the provisions of chapter 2 shall not operate to the prejudice of any right to which a worker may be entitled under any other law, or under the terms of any Award, agreement or contract of services. There is proviso to this sub section which lays down that when such award, agreement or contract of services provides for longer annual leave with wages than provided in this chapter the worker shall be entitled to only such longer annual leave. Section 78(2) exempts specified workers from the operation of chapter 8. The first difficulty which this section raises against appellants' arguments is that it undoubtedly recognises exceptions to the leave prescribed by section 79(1). It is well known that a standardisation of condition of service in industrial adjudication does not recognise or permit exceptions; if the hours of work are standardised, for instance or the wage structures is standardised, it is intended so make hours of work and wages uniform in the whole industry brought under the work of standardisation. Standardisation thus inevitably means levelling up of those whose terms and conditions of service are less favourable than the standardised ones, and levelling down those of such others whose terms and conditions were more favourable than the standardised ones. That being so, if section 79(1) intended to standardise annual leave with wages it would normally not have made provisions in regard to exceptions as section 78(1) obviously does."

(1968) XXXIV Indian Factories Journal 441 Associated Cement Co. Ltd., *vs.* Industrial Tribunal Punjab and others Holding that the Holidays Act, 1965 was a specific enactment dealing with casual and sick leave and provided for a uniform pattern of casual and sick leave for all industrial establishments and Industrial Tribunal was not justified in departing from the provisions of this Act and allowing sick leave in excess of the provisions of the Act, did not take into consideration the provisions of section 14 of the Holidays Act of 1965 and can not be taken as laying down the law different from laid in 1961-I-LLJ-328 by the Honourable Supreme Court.

The Holidays Act of 1965 as amended by the Holidays Act Haryana amendment Act 1976 providing the additions of the word "Award" after the words "Law, contract, custom and usage" in the main Act, relied on by the workman, has no application to the facts of the case in view of the absence of provisions rendering it retrospective and as such any benefit if any vesting in the workmen under this amended legislation after it came into force is not available to them in cases instituted prior thereto. The management can not be deemed to have conceded to the rights available to the workmen under the Award merely by their Act of having allowed them benefits there under till May, 1966 as contended by Shri B. K. Sharma.

It thus for all the aforesaid reasons decide this issue against the management.

Issue No. 6 :

Section 79 of the Factories Act, lays down as under :—

“Annual Leave with Wages—(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rates of :—

- (i) If an adult, one day for every twenty days of work performed by him during the previous calendar year ;
- (ii) If a child, one day for every fifteen days of work performed by him during the previous calendar year.

Explanation. 1.— For the purpose of this sub-section :—

- (a) any days of lay off, by Agreement or contract or as permissible under the standing orders ;
- (b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks ; and
- (c) the leave earned in the year prior to that in which the leave is enjoyed” ?

It would appear from plain reading of the aforesaid provisions of section 79 of the Factories Act that National and Festival holidays were never deemed to be days on which the workers had worked in the factory for the purpose of computation of the period of 240 days or more. The workmen are thus not entitled to the grant of relief covered by this issue in view of the exhaustive provisions of section 79 of the Factories Act bearing on the subject, even if the National and Festival holidays are paid days, and the I. T. has no jurisdiction to ligate. The management however agreed *vide* statement made by their authorised representative Shri N. M. Jain their Factory Manager on 3rd August, 1976 on their behalf that in case of any workman was actually required by them to work for full day on any of the festival and national holidays, such day or days be counted for computing 240 days prescribed for calculating the earned leave under section 79 of the Factories Act. I thus decide this issue accordingly with the finding that the workmen shall not be entitled to count national and festival holidays granted to them under the Holidays Act, 1965 for calculating the period of 240 days required for determining their earned leave under section 79 of the Factories Act except when they are required to work for the whole day or days on any of such holidays.

Issue No. 7 :

The parties concerned came to a settlement in respect of the demands of the workmen leading to this dispute. The management agreed to change the system of getting the weaving production weighed and booked with effect from 1st July, 1976 so as to allot the work of carrying weaving production to the place of weighing to three persons and of the existing cleaners and sweeper (Jharuwala) in each shift and to pay each one of them Rs. 15/- per mensem as allowance for this extra work. Shri B. L. Sharma authorised representative for the workmen agreed that the three cleaners and sweepers selected by the management shall discharge these duties and in case of their failure or unwillingness to do so the system now in vogue shall continue to prevail. I thus decide this issue in terms of the mutual amicable settlement arrived at between the parties in the manner as stated above.

Issue No. 8 :

The workmen did not press their demands leading to this dispute and as such I decide this issue against the workmen.

The result is that whereas the workmen are not entitled to any relief under issues Nos. 4 and 8, they are entitled to all benefits vesting in them under an award of Industrial Tribunal, Punjab, dated 21st May, 1963 and the action of the management in withholding the grant of paid sick leave to them under that award is unjustified. The workmen are further entitled to the relief under issue Nos. 6 and 7 to the extent as mutually agreed upon by the parties in the manner as stated above.

I accordingly answer the reference while returning the award in these terms.

Dated the 23rd August, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 998, dated the 24th August, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 24th August, 1976

MUHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad

The 13th December, 1976

No. 10391-4Lab-76/34105. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the Management of M/s Haryana Polymers Corporation Industries, Industrial Estate Plot No. 40, Sector 4, Ballabgarh.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 191 of 1975

between

SHRI BACHHI RAM WORKMAN AND THE MANAGEMENT OF M/S HARYANA POLYMERS CORPORATION INDUSTRIES, INDUSTRIAL ESTATE PLOT NO. 40, SECTOR-4, BALLABGARH

AWARD

By order No. ID/ED.9.06-A-75/74884, dated 29th December, 1975, the Governor of Haryana, referred the following dispute between the management of M/s Haryana Polymers Corporation Industries, Industrial Estate, Plot No. 40, Sector 4, Ballabgarh and its workman Shri Bachhi Ram to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :

Whether the termination of services of Shri Bachhi Ram was justified and in order ? If not, to what relief is he entitled ?

This reference was received by this Tribunal on 31st December, 1975. Notice to both the parties were served and the authorised representatives of both the parties appeared. The reference relates to an industrial dispute between the workman Shri Bachhi Ram and the management of M/s Haryana Polymers Corporation Industries, Industrial Estate, Plot No. 40, Sector-4, Ballabgarh. The authorised representative of the management filed a written statement and raised an objection therein that no such management in the name and style of M/s Haryana Polymers Corporation Industries, Industrial Estate, Plot No. 40, Sector-4, Ballabgarh exists at Ballabgarh. He stated that although Haryana Polymers Corporation, Industrial Estate, Plot No. 40, Sector-4, Ballabgarh exists and therefore the reference is bad in law because on such management as described in the order of reference exists at Ballabgarh. The authorised representative of the workman has admitted this fact in his rejoinder that the management in the name and style of M/s Haryana Polymers Corporation Industries, Plot No. 40, Sector-4, Ballabgarh does not exist at Ballabgarh. He further stated that the word 'Industries' after 'Haryana Polymers Corporation' has been added through some clerical error. In the demand notice also, the name of the respondent management has been described as Haryana Polymers Corporation Industries, Plot No. 40, Sector-4, Ballabgarh. The error of addition of word 'Industries' after the name of the correct management respondent "Haryana Polymers Corporation, Plot No. 40, Sector 4, Ballabgarh" has appeared even at the earlier stage of the demand notice.

This case was today fixed for arguments on this point. Today the authorised representative of the workman states that he wants to withdraw from the reference, as the reference has been made describing a wrong management respondent. He further states that he shall move the appropriate authority for a fresh reference in accordance with law. He further states that the error of addition of the word "Industries" is a clerical error and his withdrawal from this reference shall not affect his right to initiate for an other reference. The authorised representative of the management has no objection.

I, therefore, reach the conclusion that there is now no dispute between the parties. However, this award shall not affect the right of the workman. His authorised representative can move the appropriate authority for

another fresh reference describing the management correctly. I, therefore, answer the reference that there is no dispute between the parties and I return the award accordingly.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 4th October, 1976.

No. 1142, dated the 4th October, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 4th October, 1976.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 8500-4Lab-76/34107.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Metro Cinema, N.I.T., Faridabad :—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 93 of 1974.

Between

SHRI DWARKA NATH WORKMAN AND THE MANAGEMENT OF M/S METRO CINEMA,
N.I.T., FARIDABAD

AWARD

By order No. ID/27204, dated 22nd July, 1974, the Governor of Haryana, referred the following dispute between the management of M/s Metro Cinema, N.I.T., Faridabad, and its workman Shri Dwarka Nath, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947.

Whether the termination of services of Shri Dwarka Nath was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings. The workman alleged inconformity with the notice of demands served by him on the management that his services had been terminated by the management illegally with effect from 23rd January, 1974, without assigning any reason and that they declined to take him on duty on 24th January 1974, 25th January, 1974 and 26th January, 1974, on his reporting to them for that purpose. He stated that he had been working as a Gate-keeper since 27th November 1962, on wages of Rs 110.50 per mensem and had fallen ill on 23rd January, 1974, when he sent an application for grant of leave for one day and that on his going to attend his duties on 24th January, 1974, he was not allowed to do so.

The management,—*vide* written statement filed by them denied the allegations of the workman and pleaded that he abandoned his job by absenting himself from duty with effect from 23rd January, 1974, without their permission and that he continued to absent himself till the end of February, 1974, when his name was struck off the muster rolls as a result of his continued long absence. They stated that they sent letters under postal certificate on 24th January, 1974 and 29th January, 1974, to the workman asking him to attend his duties but he did not care to report for duty. The management suggested that the workman on the other hand became interested in the business of maintaining a cycle stand in the premises of the Punjab National Bank, Faridabad Branch, in preference to his continuing in their employment. They stated that the reference made to this Tribunal was bad in law for want of service on them directly of the notice of demands and its rejection by them.

The Workman controverted the pleas of the management and reiterated the allegations made by him in the claim statement,—*vide* rejoinder filed by him with the result that the following issues were framed on pleas of the parties, — *vide* order dated 22nd November, 1974:—

- (1) Whether the demand the subject matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ? (on workmen)
- (2) Whether it is a case of self abandonment of service by the workman as alleged by the management ? (on management)
- (3) Whether the termination of services of Shri Dwarka Nath was justified and in order ? If not, to what relief is he entitled ?

I have heard the learned authorised representatives for the parties and seen the record. I decide the issues as under:—

Issue No. 1.

The workman appearing as his own witness deposed that he served the management with a notice of demands copy Ex. W-1 and recieved no reply. This statement remained un-rebutted. I as such relying on the statement of the workman hold that he served the management with the notice of demands copy Ex. W-1. I however, for the reasons stated by me in my order dated 10th October, 1975, made in reference between Shri S. C. Sethi Vs. M/s Kirlosker Oil Engines, Mathura Road, Faridabad, hold that it was no longer necessary for the workman to serve a notice of demands directly on the management and for the later to reject it before the matter was taken to the Conciliation Officer, in order to constitute an industrial dispute. The reference thus made to this Tribunal cannot be said to be bad in law even if the workman did not serve a notice of demands directly on the management before his taking the matter to the Conciliation Officer. I accordingly decide this issue in favour of the management.

Issue No. 2.

This is an important issue of fact and on its decision depends the final result of the reference, in as much as, in case of proof of the plea of the management in respect of abandonment of the job by the workman voluntarily, he admittedly cannot be granted any relief. The sole question requiring determination under the circumstances would be as to whether the workman abandoned his job voluntarily or the management declined to take him on duty while terminating his services verbally. I propose to resolve this important question as under :—

The workman examined Perma Nand his father and Krishan Lal Sharma besides making his own statement. He fully corroborated the allegation made by him in the claim statement while stating that the management refused to take him on duty on 26th January, 1974 in the presence of Shri Krishan Lal and that he had sent an application for grant of leave for 23rd January, 1974, through his father Shri Parma Nand. Shri Parma Nand and Krishan Lal corroborated his evidence. It is significant to note that the names of Parma Nand and Krishan Lal were not disclosed by the workman in the claim statement or rejoinder filed by him and this circumstances alone well belies their evidence. Shri Parma Nand while stating that the cycle stand in the premises of the Punjab National Bank was looked after by him admitted that Shri Dwarka Nath also occasionally looked after the same and that he had not entered into any agreement with the Bank regarding the cycle stand. This admission substantially corroborates the plea of the management that the workman was interested in the buisness of the maintenance of the cycle stand in the premises of the Punjab National Bank in preference to his job and that he absented himself from duty with effect from 23rd January, 1974. The oral statements of Shri Parma Nand and Krishan Lal that the management declined to take him on duty are not sufficient to establish the case of the workman particularly when he admittedly did not send any reply to the letter dated 24th January, 1974, copy Ex. M-1 and letter dated 29th January, 1974, copy Ex. M-3 sent to him under postal certificate by the management asking him to join his duties and no reference was ever made of such letters in the notice of demands. Letters copy Ex. M-1 and M-3 are proved to have been sent to the workman, —vide postal certificate Ex. M-2 and M-4 respectively and the same remained unacknowledged leading to the conclusion beyond doubt that the workman absented himself from duty and abandoned his job voluntarily and the management never declined to take him on duty.

The workman examined Mohan Lal W.W. 4 and Tirloki W.W. 5 after the management led their evidence. Mohan Lal allegedly a salesman at the canteen of the Metro Cinema deposed that Kanwar Brij Pal Singh brother of the proprietor of the Cinema on 24th January, 1974, at 5.30 p.m. asked the workman to go away and told him that his services were no longer required as he had absented himself the previous day without making an application and that he further abused the workman. He admitted that Shri Dwarka Nath maintained the cycle stand in the premises of the Punjab National Bank, Faridabad, thus expressly establishing the plea of the management referred to above. Shri Tirloki also made a statement that Shri Brij Pal Singh a closed relative of the Proprietor of the Cinema in his presence reprimended the workman. He did not say a word about Brij Pal Singh declining to take him on duty or asking him to go out and thus indirectly contradicted Shri Mohan Lal.

Taking from any angle the oral evidence of the witnesses examined by the workman instead of advancing his case well corroborated the plea of the management that the workman was not interested in continuing in their employment and that he on the other hand voluntarily abandoned

his job to attend the business of maintaining a cycle stand in the premises of the Punjab National Bank. Even otherwise it could not have been difficult for the workman to procure the witness examined by him and their oral evidence taken as a whole does not inspire confidence.

I thus placing no reliance on their evidence and fully believing Shri Ram Parkash Wasan, decide this issue in favour of the management.

Issue No. 3.

In view of my findings on issue No. 2 this is obviously not a case of termination of the services of the workman by the management and is on the other hand a case of voluntarily abandonment of the job by the later. The workman is obviously not entitled to any relief. I accordingly answer the reference while returning the award in these terms.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 13th August, 1976.

No. 971, Dated 13th August, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 13th August, 1976

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 10319-4Lab-76/34123.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the Management of M/s Melco Precision 16/4, Main Mathura Road, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD
Reference No. 127 of 1976.

between

The workman and the management of M/s Melco Precision 16/4, Main Mathura Road, Faridabad.

AWARD

By order No. ID/FD/1009-76/22876, dated the 5th July, 1976 the Governor of Haryana, referred the following disputes between the management of M/s Melco Precision, 16/4, Main Mathura Road, Faridabad and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

- (1) Whether the termination of services of Shri Ram Bahadur was justified and in order? If not, to what relief is he entitled?
- (2) Whether the workmen should be supplied with uniforms? If so, with what details?

Whereas Shri S.L. Gupta put in his appearance on behalf of the management as their authorised representative before me on 16th September, 1976, in response to the usual notices of the reference sent to the management, none appeared for the workman despite notices of reference being personally served on Shri Adrash Kishore Sharma, President, General Engineering Mazdoor Union Registered N.I.T., Faridabad, who had actually raised the demand on behalf of the workmen as their authorised representative leading to this reference. The absence of the workmen and their authorised representative under the circumstances lead to a conclusion beyond doubt that they are not interested in pursuing the demand leading to this reference and there is now no dispute between the parties requiring adjudication.

I hold accordingly and answer the reference while returning the award in these terms.

Dated, the 23rd September, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1085, dated, 28th September, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 28th September, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.